

FISCAL IMPACT:

	<u>FY2002</u> <u>Difference</u>	<u>FY2003</u> <u>Difference</u>
<u>Revenues:</u>		
Other Permanent Trust (09)	(251,100)	(251,100)
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
Other Permanent Trust (09)	(251,100)	(251,100)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

County governments would experience savings under this bill as county roads would qualify under the definition of infrastructure.

LONG-RANGE IMPACTS:

There would be a reduction of income to the school trust.

TECHNICAL NOTES:

1. Trust lands administered by the Department of Natural Resources and Conservation were granted to the State of Montana by the federal government by the Montana Enabling Act of 1889. Section 11 of that act specifically authorized the state to grant easements, but requires that no such interest shall ever be disposed of unless the full market value has been obtained.
2. Article X, Section 11 of the Montana Constitution affirms the Enabling Act and also requires that no interest in school trust land shall ever be disposed of until the full market value has been realized.
3. The Montana Supreme Court recently held in *MonTrust v. State of Montana* that the reduced cost easement valuation procedure established in 77-1-130, MCA, for the recognition of historic right-of-way was unconstitutional. This case also held that a portion of 77-2-106, MCA, that had provided "where a road follows the section lines of state lands, the increased value accruing to said lands on account of construction of a road on said right of way easement shall be taken into consideration by the Board in determining compensation, if any, for the easement" was unconstitutional for failure to achieve full market value. Therefore, 77-2-106, MCA, was amended by the 1999 Legislature to remove this provision.
4. Easements are by definition an "interest" in land. Section 1 (3) would therefore prevent the DNRC from issuing easement documents that include the conveyance of rights required by applicants.